

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
FORT WORTH DIVISION**

UNITED STATES OF AMERICA	)	
	)	
v.	)	
	)	<b>No. 4:21-CR-5-O</b>
THE BOEING COMPANY,	)	
	)	
<i>Defendant.</i>	)	
	)	

**BOEING’S RESPONSE TO THE DECLARATION OF ERIN NEALY COX**

As requested by the Court, The Boeing Company hereby submits its response to the Declaration of Erin Nealy Cox filed on January 10, 2022 (Dkt. 33). Ms. Nealy Cox stated in her Declaration that she did not speak to Boeing’s counsel about this case or about potential employment while serving as United States Attorney. Ms. Nealy Cox further states that she only spoke to law firms (including Kirkland & Ellis) about potential employment after she left the government and that discussions regarding her employment by Kirkland & Ellis were initiated and facilitated by a recruiter. Boeing and its counsel are not aware of any facts that contradict these sworn statements and have no reason to doubt their accuracy. Boeing and its counsel are also unaware of any factual basis for movants’ allegations of impropriety concerning Ms. Nealy Cox’s conduct while serving as United States Attorney, including with respect to the Deferred Prosecution Agreement, or with respect to her departure from the government. Movants have provided no factual support for their allegations. Boeing supports Ms. Nealy Cox’s request to strike any unsupported allegations against her, as a distinguished civil servant and officer of this Court.

While the allegations related to Ms. Nealy Cox should be stricken for the reasons set forth in her submission, neither those allegations nor the other arguments movants make in their motions provide a legal basis for modifying the Deferred Prosecution Agreement between Boeing and the

Government. *See United States v. Fokker Servs. B.V.*, 818 F.3d 733, 740–41 (D.C. Cir. 2016); *United States v. HSBC Bank USA, N.A.*, 863 F.3d 125, 137 (2d Cir. 2017); *In re McNulty*, 597 F.3d 344, 351 (6th Cir. 2010).

Respectfully submitted,

**McGUIREWOODS LLP**

/s/ Benjamin L. Hatch

Benjamin L. Hatch  
VA Bar No. 70116  
bhatch@mcguirewoods.com

Brandon M. Santos  
VA Bar No. 75380  
bsantos@mcguirewoods.com

McGuireWoods LLP  
888 16th Street N.W., Suite 500  
Black Lives Matter Plaza  
Washington, DC 20006  
Tel: 757.640.3727  
Fax: 757.640.3947

***Counsel for The Boeing Company***

**KIRKLAND & ELLIS LLP**

/s/ Jeremy A. Fielding

Jeremy Fielding  
Texas State Bar No. 24040895  
Jeremy.fielding@kirkland.com

Ian Brinton Hatch  
Texas State Bar No. 24123444  
Ian.hatch@kirkland.com

Kirkland & Ellis LLP  
1601 Main Street  
Dallas, Texas 75201  
Tel; (214) 972-1770  
Fax: (214) 972-1771

Craig S. Primis  
DC Bar No. 454796  
cprimis@kirkland.com

Mark Filip  
IL Bar No. 6226541  
mark.filip@kirkland.com

Patrick Haney  
DC Bar No. 1005326  
patrick.haney@kirkland.com

Kirkland & Ellis LLP  
1301 Pennsylvania Avenue NW  
One Freedom Plaza  
Washington, DC 20004  
Tel: 202.879.5000  
Fax: 202.654.9645

***Counsel for The Boeing Company***

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a copy of the foregoing is being served on all counsel of record pursuant to the Federal Rules of Civil Procedure and the Court's Local Rules on the 19th day of January, 2022.

Jeremy A. Fielding  
Jeremy A. Fielding